

CHAPTER 69

STATEWIDE PUBLIC DEFENDER SYSTEM

Subchapter 1

Organizational Rule

2.69.101 ORGANIZATION OF THE STATEWIDE PUBLIC DEFENDER SYSTEM (1) The organization and function of the statewide public defender system are described in this rule.

(a) History. The statewide public defender system was established by Chapter 449, Laws of Montana 2005. The system is provided for in 47-1-104, MCA.

(b) Structure. The statewide system consists of the following:

(i) the Montana Public Defender Commission. The commission is comprised of eleven members appointed by the Governor.

(ii) the Office of the State Public Defender; and

(iii) the Appellate Defender.

(2) Functions.

(a) Commission. The commission supervises the operations of the chief public defender and the office of the state public defender, as required by 47-1-105, MCA.

(b) Chief Public Defender. The chief public defender administers the office of the state public defender as required by 47-1-201 and 47-1-202, MCA.

(3) Contact Information.

Montana Public Defender Commission, 44 West Park Street, Butte, MT, 59701, telephone (406) 496-6080.

(4) Organization Chart.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

EXHIBIT 8

STATEWIDE PUBLIC DEFENDER SYSTEM

Subchapter 2

Procedural Rules and Definitions

2.69.201 PROCEDURES FOR ADOPTING, AMENDING, AND REPEALING AGENCY RULES (1) The public defender commission, for purposes of establishing agency rulemaking procedures, adopts and incorporates by reference attorney general's model procedural rules 1 found in ARM 1.3.102 and 2 through 7 found in ARM 1.3.205 through 1.3.210. A copy of the attorney general's model rules may be obtained by contacting the Attorney General's Office, Justice Building, 215 N. Sanders, P.O. Box 201401, Helena, MT 59620-1401, telephone (406) 444-2026.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

2.69.202 PROCEDURES FOR THE ISSUANCE OF DECLARATORY RULINGS (1) The public defender commission adopts and incorporates by reference attorney general's model procedural rules 22 through 24 and 28 found in ARM 1.3.227 through 1.3.229 and 1.3.233 which set forth the procedures for the issuance of declaratory rulings. A copy of the model rules may be obtained by contacting the Attorney General's Office, Justice Building, 215 N. Sanders, P.O. Box 201401, Helena, MT 59620-1401, telephone (406) 444-2026.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

2.69.203 DEFINITIONS (1) "Applicant" means a person who seeks public defender services.

(2) "Conflict coordinator" means an attorney who coordinates conflict cases.

(3) "Contracted attorney" means an attorney who is not employed by the state, but who is providing public defender services as an independent contractor after having accepted an assigned case from a deputy public defender or from the conflict coordinator.

(4) "Counsel" means a licensed attorney qualified and trained to represent indigent individuals in the courts of the state of Montana.

(5) "Eligible" means that an applicant has been determined to be entitled to the full benefit of public defender services until the court's order requiring the assignment of counsel has been rescinded.

(6) "Nonattorney services" shall include, but not be limited, to pre-approved services rendered by professional and nonprofessional persons considered necessary for the effective representation of indigent clients.

(7) "Regional office" means an office authorized under 47-1-104(2), MCA.

AUTH: 47-1-105, MCA

IMP: 47-1-105, 47-1-111, 47-1-216, MCA

STATEWIDE PUBLIC DEFENDER SYSTEM

Subchapter 3

Determination of Indigency and Eligibility for Public Defender Services

2.69.301 DETERMINATION OF INDIGENCY (1) The office shall prepare forms to capture financial information from an applicant for public defender services.

(2) The office shall distribute the forms to courthouses, jails, and other venues determined appropriate by the office.

(3) The applicant will complete the forms in accordance with instruction provided on the forms and forward them to the appropriate regional office.

(4) The staff of the regional office shall review an applicant's forms and determine whether, based on the provisions of 47-1-111, MCA, an applicant is indigent and qualifies for public defender services. The applicant will be notified of this determination, regardless of outcome.

(5) All information collected on the forms shall be treated as confidential.

AUTH: 47-1-105, 47-1-111, MCA

IMP: 47-1-105, 47-1-111, MCA

Subchapters 4 and 5 reserved

STATEWIDE PUBLIC DEFENDER SYSTEM

Subchapter 6

Compensation for Contracted Attorneys and Nonattorneys

2.69.601 REASONABLE COMPENSATION (1) The commission shall meet at least biannually to review and approve the compensation rates based on criteria the commission deems appropriate.

(2) The commission shall determine appropriate compensation rates for:

(a) contract attorneys; and

(b) others who provide services related to the provision of public defender services.

(3) Any contracts for attorney or related services shall use these approved rates of compensation.

AUTH: 47-1-105, 47-1-216, MCA

IMP: 47-1-105, 47-1-216, MCA